

IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF:

Iowa County Sanitary Landfill

Wastewater Facility No. 6-48-00-9-04

**ADMINISTRATIVE
CONSENT ORDER
NO. 2011-WW-08**

**TO: Daniel Ray, Chairman
Board of Directors
Regional Environmental Improvement Commission
3369 Highway 6 Trail
P.O. Box 371
Marengo, Iowa 52301**

I. SUMMARY

This administrative consent order (order) is entered into by the Regional Environmental Improvement Commission (REIC) and the Iowa Department of Natural Resources (Department). The REIC hereby agrees to comply with the schedule contained in this order for modifications to its operations or construction of wastewater treatment facilities to allow this facility to comply with ammonia effluent limitations in its NPDES Permit. In the interest of avoiding litigation, the parties have agreed to the following provisions.

Any questions regarding this order should be directed to:

Relating to technical requirements:

Wendy Hieb
Environmental Specialist
NPDES Section
502 East 9th Street
Des Moines, IA 50319-0034
Ph: (515) 281-7804

Relating to legal requirements:

Diana Hansen
Attorney at Law
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034
Ph: (515) 281-6267

II. JURISDICTION

The parties hereby agree that this order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure

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compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part I, and the rules promulgated or permits issued pursuant thereto, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. The Iowa County Sanitary Landfill is a municipal solid waste sanitary landfill (RCRA Subtitle D Non-Hazardous Waste Landfill) located at 3369 Highway 6 Trail, Homestead, Iowa 52236. The landfill is located two miles east of Homestead, Iowa on 120 acres. The legal description is Section 1, T 80N, 9 RW, Iowa County, Iowa. This facility is operated by the REIC. The REIC operates a wastewater treatment system that consists of a continuous discharge three cell aerated lagoon system. Landfill leachate is collected and transported through underground pipes to the aerated lagoon system for treatment. The aerated lagoon system discharges to an unnamed general use stream that empties into the Iowa River, designated Class A1, B(WW-1) HH.

2. The Department issued an NPDES permit to this facility on November 22, 2002. The NPDES permit expired on November 21, 2007. The Department received an application from the City for a new NPDES permit on May 28, 2007.

3. The new NPDES permit proposed for this facility has more stringent effluent limitations than the expired permit. The facility cannot immediately comply with the new limits for ammonia and has requested a schedule that will allow time to evaluate processes, determine a course of action and implement changes that will allow it to comply with the new permit. The Department has found that a schedule is both necessary and appropriate and that the recommended schedule will result in compliance as soon as possible.

4. New ammonia effluent limitations in the NPDES permit will be based on federal effluent guidelines for best practicable control technology economically achievable (BPT) and best available technology economically available (BAT) for the 30 day average concentration limit for all months and for the daily maximum limit for the months of January through April and for December. For the months of May through November the ammonia daily maximum concentration limits in the new NPDES permit will be water quality based limits resulting from the wasteload allocation calculations.

BPT and BAT federal regulations for landfills were promulgated on January 19, 2000 at 65 FR 3048. See 40 CFR Part 445 and more specifically 40 CFR 445.1- 445.3 and 40 CFR 445.20- 24. Department rules were amended to incorporate by reference the federal standards into 567 IAC 62.4(45), with an effective date of December 20, 2000. The Department has not previously applied these federal guidelines in NPDES permits issued to REIC for the Iowa County Sanitary Landfill. Since this facility cannot meet the effluent limitations for ammonia in the new NPDES permit, this consent order is being

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issued to provide a schedule for this landfill to enable the landfill to meet the new ammonia effluent limitations.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged pursuant to a permit. Iowa Code section 455B.183 prohibits the operation of a wastewater disposal system without a permit from the Department.

2. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of waste disposal systems, including rules relating to monitoring and reporting requirements. The Commission has done so at 567 IAC chapters 60- 64. Subrule 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of an operation permit. Subrule 64.7 specifies the conditions that are to be included in a permit, including applicable effluent limitations in chapters 61 and 62 of the rules.

3. BPT and BAT federal regulations for landfills were promulgated on January 19, 2000 at 65 FR 3048, with an effective date of February 2, 2000. See 40 CFR Part 445 and more specifically 40 CFR 445.1- 445.3 and 40 CFR 445.20- 24. Department rules were amended to incorporate by reference the federal standards into 567 IAC 62.4(45), with an effective date of December 20, 2000.

Department subrule 567 IAC 62.4(45) adopts by reference the federal regulations found in 40 CFR Part 445 for the landfills point source category. The provisions that are applicable to this particular landfill are the general provisions of 40 CFR 445.1- 445.3 as well as the provisions for RCRA Subtitle D non-hazardous landfills found in 40 CFR 445.20- 445.24. These provisions include, among other parameters, effluent limitations for BOD₅, TSS and ammonia as N.

4. The Environmental Protection Agency (EPA) regulations, found at 40 CFR 122.47, allow permit writers to establish schedules of compliance in NPDES permits to give permittees additional time to achieve compliance with the Clean Water Act (CWA) and applicable regulations. Department rules also allow for the inclusion of compliance schedules in permits. See 567 IAC 64.7(4). Schedules developed under these provisions must require compliance by the permittee as soon as possible, but may not extend the final compliance date beyond the compliance dates of the CWA.

REIC is considered an existing source for the purpose of determining the applicability of the federal effluent standards adopted by the Department for landfills. For existing sources the facility must comply with new standards when their NPDES permits are issued, renewed or modified. Due to this, a schedule for compliance cannot be included in the new NPDES permit that will be issued concurrently with this order.

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The *US EPA NPDES Permit Writers Manual* (December 1996) on page 149 states: "In situations where the permittee will be unable to meet permit conditions, and where a compliance schedule pursuant to 40 CFR §122.47 is not permitted, the practical alternative is to initiate an Administrative Order under Section 309 of the CWA (containing a schedule of compliance) concurrent with permit issuance." In view of this guidance, the Department and REIC have agreed to the issuance of this consent order with a schedule.

V. ORDER

THEREFORE, the Department orders and the REIC agrees to comply with the following provisions in order to cease, abate, and redress the above-cited violations:

Improvements at the Iowa County Sanitary Landfill are required to be completed in accordance with the following schedule:

1. Contact Terry Kirschenman at 515/281-8885 to request that a Project Manager be assigned within 90 days from issuance of the NPDES permit.
2. Submit a progress report to the Department Project Manager within twelve months of the issuance of the NPDES permit.
3. Submit a complete Facility Plan meeting Department design standards within 15 months of the issuance of the NPDES permit. The Facility Plan is required to be completed in accordance with Chapter 11.2 of the Iowa Wastewater Facilities Design Standards adopted April 25, 1979.
4. Submit a progress report within 24 months of issuance of the NPDES permit.
5. Submit final plans and specifications meeting Department design standards and a complete construction permit application within 30 months of issuance of the NPDES permit.
6. Award a contract for the construction of wastewater treatment facility improvements within 36 months of issuance of the NPDES permit.
7. Submit a progress report within 44 months of issuance of the NPDES permit.
8. Complete construction of wastewater treatment facility improvements within 46 months of issuance of the NPDES permit.
9. Achieve compliance with all final effluent limits by 48 months of issuance of the NPDES permit.

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10. Within fourteen (14) days following all dates of compliance, the permittee shall provide written notice of compliance with the scheduled event. All written notices and progress reports shall be sent to Wendy Hieb, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, IA 50319 and Field Office No. 6, Iowa Department of Natural Resources Field Office No. 6, 1023 West Madison Street, Washington, IA 52353.

VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter. More serious criminal sanctions are also available pursuant to this Code provision.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in Chapter 567 IAC chapter 10. Pursuant to these rules the Department has determined that the most effective and efficient means of addressing the issues raised in this order is the issuance of an order without the assessment of administrative penalties.

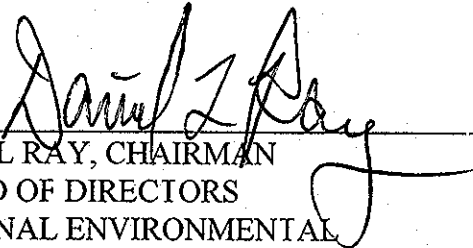
VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.175, and 561 IAC 7.4(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This order is entered into knowingly by and with the consent of the REIC. By signature to this order, all rights to appeal this order are waived.

VIII. NONCOMPLIANCE

Compliance with Paragraph V. of this order constitutes full satisfaction of all requirements pertaining to the violations described in this order. Failure to comply with this order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.

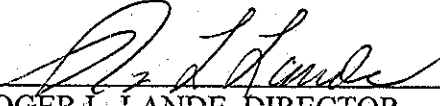
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DANIEL RAY, CHAIRMAN
BOARD OF DIRECTORS
REGIONAL ENVIRONMENTAL
IMPROVEMENT COMMISSION

Dated this 29th day of

April, 2011



ROGER L. LANDE, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 13th day of

May, 2011

Regional Environmental Improvement Commission (REIC), Wastewater Facility No. 6-48-00-9-04 (Copy to Central Office Wastewater Records File), Wendy Hieb, NPDES Section, Dennis Ostwinkle- Field Office No. 6, Diana Hansen- Legal Services Bureau; I.B.2.b.